

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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Chanda Coston,

Plaintiff,

Civil Action No.: _____

-against-

Audubon Financial Bureau, LLC,
and Adam D. March, individually

Defendants.

-----X

**COMPLAINT AND DEMAND
FOR TRIAL BY JURY**

Plaintiff Chanda Coston ("Plaintiff"), by and through her attorneys, Fredrick Schulman & Associates, as and for her Complaint against Defendants Audubon Financial Bureau, LLC ("Defendant" or "Audubon") and Adam D. March ("Defendant" or "March"), respectfully sets forth, complains, and alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action seeking declaratory relief and damages for Defendants' violations of §1692 *et seq.* of Title 15 of the United States Code, commonly referred to as the Fair Debt Collection Practices Act ("FDCPA").

JURISDICTION AND VENUE

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331 and 15 U.S.C. §1692 *et seq.* If applicable, the Court also has pendent jurisdiction over any State law claims in this action pursuant to 28 U.S.C. §1367(a).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)(1).

PARTIES

4. Plaintiff is a natural person who at all relevant times herein resided in the State of Maryland, County of Baltimore, and City of Baltimore.

5. Upon information and belief, Defendant Audubon Financial Bureau, LLC is a limited liability company chartered under the laws of the State of Delaware and authorized to conduct business in the State of Maryland. Upon further information and belief, Defendant Audubon's principal place of business is located in the State of New York, County of Erie, and City of Amherst.

6. Upon information and belief, Defendant Adam D. March is a natural person who at all relevant times herein resided in the State of New York, County of Erie, and City of Getzville.

7. Upon information and belief, Defendant March is a member-manager and/or shareholder of Defendant Audubon.

8. Upon further information and belief, as member-manager and/or shareholder of Defendant Audubon, Defendant March exercised control over Defendant Audubon's day-to-day operations

9. Upon further information and belief, Defendant March created and/or approved the script used by Defendant Audubon's debt collector representatives and employees.

10. At all relevant times herein, Plaintiff is a "consumer" as that term is defined in 15 U.S.C. §1692a(3) of the FDCPA.

11. Upon information and belief, Defendants are "debt collectors" as that term is defined in 15 U.S.C. §1692a(6) of the FDCPA.

12. Upon information and belief, Defendants were attempting to collect a "debt" from the Plaintiff as that term is defined in 15 U.S.C. §1692a(5) of the FDCPA. Upon further information

and belief, at all relevant times herein, Defendants knew or had reason to know that they were obligated to comply with the provisions of the FDCPA when attempting to collect a debt allegedly owed by Plaintiff.

FACTUAL ALLEGATIONS

13. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered “1” through “12” herein with the same force and effect as if the same were set forth at length herein.

14. Upon information and belief, on a date better known to the Defendants, Defendants initiated collection activities to recover a debt allegedly owed by Plaintiff to an original creditor unknown to Plaintiff (“Alleged Debt”).

15. In or around November 2012, Defendants began calling Plaintiff regarding the Alleged Debt.

16. Plaintiff requested that Defendants send her information about the Alleged Debt in writing and asked that Defendants cease contacting her by phone.

17. Upon information and belief, following Plaintiff’s request, Defendants failed to send Plaintiff any information about the Alleged Debt in writing.

18. Furthermore, although Defendants discontinued phone contact with Plaintiff for a limited period of time, Defendants began calling Plaintiff yet again in or around January 2013, this time to Plaintiff’s workplace.

19. Plaintiff advised Defendants on several occasions that she could not receive personal calls at work.

20. Plaintiff's supervisor and coworkers also instructed Defendants not to call Plaintiff at work.
21. Defendants disregarded Plaintiff's requests and continued to call Plaintiff's workplace.
22. On January 10, 2013, Defendants' employee called Plaintiff but refused to identify himself or Defendants' company name, stating, "I don't have to tell you who I am." After a verbal exchange, the employee hung up on Plaintiff.
23. When Plaintiff called Defendants back, another employee told her that Defendants would send her something in the mail about the Alleged Debt shortly.
24. Immediately following said phone call, one of Defendants' employees called Plaintiff at work again.
25. Plaintiff returned the call and requested that the answering employee make a note on Plaintiff's account that Plaintiff was not to be called at work again.
26. On the same day, January 10, 2013, Defendants' employee left the following voicemail on Plaintiff's cellular phone:

This message is for Chanda Coston, last four digits of the Social Security Number xxxx.

My name is Vincent Chase with the offices of AFB & Associates. We've been retained as an arbitrator due to a civil judgment that has been filed against you in Charles County.

I've attempted to contact you on your other phone and have now tried the work number you provided.

At this time it is imperative I speak to you or your legal representation before the court summons an issue to you at your place of residence and/or your place of verified employment. To avoid this protocol, you or your attorney need to contact me at 866-597-6942, direct extension 161.

27. On January 11, 2013, Defendants called Plaintiff at work again.
28. Defendants continue to call Plaintiff at work, aggravating Plaintiff, her coworkers, and her supervisor, and putting her career in jeopardy.
29. Plaintiff never received anything in writing from the Defendants.

FIRST CAUSE OF ACTION
(Violation of 15 U.S.C. §1692c(a)(3))

30. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered “1” through “29” herein with the same force and effect as if the same were set forth at length herein.
31. Defendants’ conduct violated §1692c(a)(3) in that Defendants contacted Plaintiff at Plaintiff’s place of employment despite Defendants’ knowledge that Plaintiff’s employer prohibited Plaintiff from receiving such communication.
32. As a result of Defendants’ violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney’s fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney’s fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants’ practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements o this action as this Court may deem just and proper.

SECOND CAUSE OF ACTION
(Violation of 15 U.S.C. §1692d)

33. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “32” herein with the same force and effect as if the same were set forth at length herein.

34. Defendants’ conduct violated §1692d in that Defendants engaged in conduct the natural consequence of which was to harass, oppress, or abuse Plaintiff when Defendants repeatedly contacted Plaintiff’s workplace in connection with the collection of the Alleged Debt despite Plaintiff’s request that they stop doing so.

35. As a result of Defendants’ violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney’s fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney’s fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants’ practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements o this action as this Court may deem just and proper.

THIRD CAUSE OF ACTION
(Violation of 15 U.S.C. §1692d(6))

36. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “35” herein with the same force and effect as if the same were set forth at length herein.

37. Defendants' conduct violated §1692d(6) in that Defendants' employee called Plaintiff without disclosing his or his company's identity.

38. As a result of Defendants' violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney's fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements o this action as this Court may deem just and proper.

FOURTH CAUSE OF ACTION
(Violation of 15 U.S.C. §1692e)

39. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "38" herein with the same force and effect as if the same were set forth at length herein.

40. Defendants' conduct violated §1692e in that Defendants used false, deceptive, or misleading representation or means in connection with the collection of the Alleged Debt when Defendants' employee falsely stated that Plaintiff would be sent written materials regarding the Alleged Debt and when Defendants' employee claimed that a judgment had been filed against Plaintiff for the Alleged Debt.

41. As a result of Defendants' violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney's fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements o this action as this Court may deem just and proper.

FIFTH CAUSE OF ACTION
(Violation of 15 U.S.C. §1692e(2)(A))

42. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "41" herein with the same force and effect as if the same were set forth at length herein.

43. Defendants' conduct violated §1692e(2)(A) in that Defendants falsely represented the legal status of the Alleged Debt when Defendants' employee falsely claimed that a judgment had been filed against Plaintiff.

44. As a result of Defendants' violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney's fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements o this action as this Court may deem just and proper.

SIXTH CAUSE OF ACTION
(Violation of 15 U.S.C. §1692e(5))

45. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "44" herein with the same force and effect as if the same were set forth at length herein.

46. Defendants' conduct violated §1692e(5) in that Defendants' employee threatened Plaintiff with action that could not legally be taken and/or was not intended to be taken when Defendants' employee threatened Plaintiff with a judgment and summons.

47. As a result of Defendants' violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney's fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements o this action as this Court may deem just and proper.

SEVENTH CAUSE OF ACTION
(Violation of 15 U.S.C. §1692e(10))

48. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “47” herein with the same force and effect as if the same were set forth at length herein.

49. Defendants’ conduct violated §1692e(10) in that Defendants used false, deceptive, or misleading representation or means in connection with the collection of the Alleged Debt when Defendants’ employee falsely stated that Plaintiff would be sent written materials regarding the Alleged Debt and when Defendants’ employee claimed that a judgment had been filed against Plaintiff for the Alleged Debt.

50. As a result of Defendants’ violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney’s fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney’s fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants’ practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements o this action as this Court may deem just and proper.

EIGHTH CAUSE OF ACTION
(Violation of 15 U.S.C. §1692e(11))

51. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “50” herein with the same force and effect as if the same were set forth at length herein.

52. Defendants’ conduct violated §1692e(11) in that Defendants failed to disclose that their communication with Plaintiff was from a debt collector when Defendants’ employee identified himself as an arbitrator in a voicemail message to Plaintiff and did not state that he was in fact a debt collector.

53. As a result of Defendants’ violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney’s fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney’s fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants’ practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements o this action as this Court may deem just and proper

NINTH CAUSE OF ACTION
(Violation of 15 U.S.C. §169e(14))

54. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “53” herein with the same force and effect as if the same were set forth at length herein.

55. Defendants' conduct violated §1692e(14) in that Defendants used a business, company, or organization name other than their true name when Defendants' employee identified himself as calling from "AFB & Associates" instead of using Defendants' true name, "Audubon Financial Bureau."

56. As a result of Defendants' violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney's fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements of this action as this Court may deem just and proper

TENTH CAUSE OF ACTION
(Violation of 15 U.S.C. §1692f)

57. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "56" herein with the same force and effect as if the same were set forth at length herein.

58. Defendants' conduct violated §1692f in that Defendants used unfair and/or unconscionable means in attempt to collect the Alleged Debt when Defendants attempted to coerce Plaintiff into paying a debt that Plaintiff disputes by threatening her with false claims of a judgment and summons.

59. As a result of Defendants' violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney's fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements of this action as this Court may deem just and proper

ELEVENTH CAUSE OF ACTION
(Violation of 15 U.S.C. §1692f(1))

60. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "59" herein with the same force and effect as if the same were set forth at length herein.

61. Defendants' conduct violated §1692f(1) in that Defendants attempted to collect an amount not authorized by agreement or permitted by law.

62. As a result of Defendants' violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)

- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney's fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses, and disbursements of this action as this Court may deem just and proper

TWELFTH CAUSE OF ACTION
(Violation of 15 U.S.C. §1692g)

63. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "62" herein with the same force and effect as if the same were set forth at length herein.

64. Defendants' conduct violated §1692g in that Defendants failed to send Plaintiff a notice containing the amount of the debt, the name of the creditor to whom the debt is owed, a statement that Plaintiff could dispute the debt within thirty days, a statement that Plaintiff could request verification of the debt, and a statement that Defendants would provide Plaintiff with the name and address of the original creditor upon Plaintiff's request within thirty days.

65. As a result of Defendants' violation of the FDCPA, Plaintiff has been damaged and is entitled to statutory damages, actual damages, and all costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k *et seq.*

WHEREFORE, Plaintiff Chanda Coston demands judgment from Defendants Audubon Financial Bureau, LLC, and Adam D. March, as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. §1692k(a)(1)
- B. For statutory damages provided and pursuant to 15 U.S.C. §1692k(a)(2)(A)
- C. For attorney's fees and costs provided and pursuant to 15 U.S.C. §1692k(a)(3)
- D. For a declaration that the Defendants' practices violated the FDCPA; and,

E. For any such other and further relief, as well as further costs, expenses, and disbursements of this action as this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

66. Plaintiff demands and hereby respectfully requests a trial by jury for all claims, and issues this complaint to which Plaintiff is or may be entitled to a jury trial.

Dated: New York, New York
March 11, 2013

Respectfully submitted,

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